

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

*IN RE SUBPOENA OF JAMES COMEY BY
AUTHORITY OF THE HOUSE OF
REPRESENTATIVES OF THE CONGRESS OF THE
UNITED STATES OF AMERICA*

Miscellaneous Case No.

**MOTION AND MEMORANDUM IN SUPPORT BY JAMES B. COMEY TO QUASH
THE CONGRESSIONAL SUBPOENA**

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James B. Comey respectfully submits this motion and memorandum in support to quash the congressional subpoena. As set forth below, the subpoena, which calls for a closed, non-public deposition of Mr. Comey, exceeds a proper legislative purpose, is issued in violation of House rules, and unduly prejudices and harasses the witness. This motion is accompanied by a related motion to stay any proceedings thereunder until this motion may be heard.

STATEMENT OF FACTS

On November 21, 2018, the Committee on the Judiciary of the United States House of Representatives (“Judiciary Committee”) served James B. Comey, the former Director of the U.S. Federal Bureau of Investigation (“FBI”), with a subpoena requiring Mr. Comey’s testimony at a closed-door deposition on December 3, 2018 at the Rayburn House Office building in Washington, D.C. *See* Exhibit A.

Mr. Comey previously had been informed by counsel to the Judiciary Committee, in or about September 2018, that the Judiciary Committee, together with the House Committee on Oversight and Government Reform (the “Joint Committees”), were conducting a joint inquiry into two separate investigations previously conducted by the FBI and Department of Justice (“DOJ”): the investigation of certain conduct of former Secretary of State Hillary Clinton, and the investigation of allegations of possible Russian interference in the 2016 Presidential election (the “Joint Committees’ Investigation”). Counsel noted in particular that the Joint Committees intended to ask Mr. Comey questions about the FBI and DOJ’s investigations of Secretary Clinton’s handling of classified materials, her use of private email servers, and other matters concerning the 2016 election, as well as the FBI and DOJ’s subsequent recommendation that Secretary Clinton not be prosecuted. *See* Exhibit B.

In subsequent correspondence from Judiciary Chairman Bob Goodlatte and Chairman Trey Gowdy of the Committee on Oversight and Government Reform, dated September 21, 2018, Mr. Comey was requested to appear voluntarily for a closed-door transcribed interview by the Joint Committees concerning “decisions made and not made by the FBI and DOJ during the 2016 election.” *See* Exhibit C.

In a letter dated October 1, 2018, Mr. Comey notified the Joint Committees that he would decline their invitation to sit for the proposed private interview but that he welcomed the opportunity to provide sworn testimony at a public hearing regarding the subject matters of the Joint Committees’ Investigation. *See* Exhibit D. The Joint Committees acknowledged receipt of the October 1 letter, but made no further response until the subpoena was issued on November 21. *See* Exhibit D.

Mr. Comey, who was appointed by President Obama, served as Director of the FBI from September 4, 2013, until he was fired by President Trump on May 9, 2017. While FBI Director, Mr. Comey oversaw, among numerous other investigations, the investigations of Secretary Clinton’s handling of classified emails and of alleged Russian interference with the 2016 general election (the “Clinton and Russian investigations”). While FBI Director, and after his tenure as Director, Mr. Comey provided testimony or closed-door briefings on these matters on numerous occasions to, among others, the House Oversight and Government Reform Committee (July 7, 2016), House Judiciary Committee (September 28, 2016), House Permanent Select Committee on Intelligence (March 20, 2017), United States Senate Committee on the Judiciary (May 3, 2017), and the Senate Select Committee on Intelligence (June 8, 2017). In addition, while serving as Director, Mr. Comey met on several occasions with full Senate and House intelligence

committees as well as with chairs and ranking members of those committees to provide classified briefings regarding the Russian investigation.

While Mr. Comey served as FBI Director, he possessed numerous security clearances in order to handle classified information lawfully. As is customary for departing federal officials, Mr. Comey relinquished all of his clearances and was “read out” of all the classified compartments and programs to which he had access as Director in or about August 2017, notwithstanding President Trump’s announcement, many months later in July of 2018, that he intended to strip Mr. Comey of all of his clearances. When Judiciary Committee Counsel first contacted Mr. Comey regarding the requested closed-door interview, counsel indicated that, for purposes of the interview Mr. Comey would be given a temporary or “provisional” clearance so that he could discuss classified information therein.

ARGUMENT

Mr. Comey asks this Court’s intervention not to avoid giving testimony but to prevent the Joint Committee from using the pretext of a closed interview to peddle a distorted, partisan political narrative about the Clinton and Russian investigations through selective leaks. That corrosive narrative is familiar – that Secretary Clinton committed serious crimes and was given unwarranted leniency by an FBI and DOJ that were loyal to her and her party, and that President Trump has, by contrast, been saddled with unwarranted scrutiny, for purely partisan political reasons, by that same FBI and DOJ. And it draws sustenance from a poisonous combination of presidential tweets and the selective leaking that has become standard practice for the Joint Committees. The broader purpose of these tweets and leaks appears to be to mislead the public and to undermine public confidence in the FBI and the DOJ during a time when President Trump

and members of his administration and campaign team are reported to be under investigation by Special Counsel Robert Mueller and other law enforcement authorities.

The public record shows members of the Joint Committees leaking what suits them and maintaining the secrecy only of what does not. Witnesses who appear before the Joint Committees are powerless to counter or contextualize the distortions of their testimony that are leaked to the press and the full scope of their testimony is kept from public view for reasons known only to members of the Joint Committees. Mr. Comey may lack standing to complain about the grievous harm that the Joint Committees' practice has done to public discourse on matters of grave national concern, but he very much has standing to challenge the Joint Committees' plan to make him the next victim of their unauthorized and abusive tactics.

Mr. Comey welcomes the opportunity to testify publicly about the Clinton and Russian investigations as he has done previously numerous times. He does not shy from public accountability for his time as Director of the FBI. To be clear, the FBI and DOJ are appropriately subject to congressional oversight, and the subject matters of the Joint Committees' Investigation are appropriate subjects of a proper investigation. Mr. Comey should not be forced, however, to testify under the circumstances and conditions imposed by the Joint Committees, which conditions – particularly given the Committee's history of selective leaking – lack any legitimate congressional purpose and would instead enable precisely the sort of harassment the case law condemns. Mr. Comey should not be coerced into participating in an improper and partisan effort to undermine the legitimacy of an institution that he served for the better part of four years. Moreover, a closed interview of the kind proposed by the Joint Committees is contrary to Congress' presumption that congressional proceedings be open to the public. There is no legitimate reason why Mr. Comey cannot provide sworn, live public

testimony about the matters under investigation; given the Joint Committees' track record of leaks from prior closed-door depositions, the Joint Committees cannot credibly invoke the need to protect the sensitive nature of the information developed in those closed sessions to overcome the general presumption of congressional openness and transparency.

For the reasons set forth below, Mr. Comey asks this Court to quash the Joint Committees' subpoena in its current form, and will decline any request that he be "read in" to classified material for the purposes of testifying at this or any other closed interview.

I. JUDICIAL INTERVENTION TO QUASH THE SUBPOENA IS APPROPRIATE AND WARRANTED

Although congressional investigations are due significant deference from the courts, *McGrain v. Daugherty*, 273 U.S. 135, 178 (1927), that deference has limits, and we respectfully submit that those limits have long since been reached. Courts have intervened in the conduct of congressional investigations in two limited circumstances: 1) where congressional authority was abused to harass and intimidate witnesses, and 2) where Congress has broken its own rules in the conduct of an investigation. The Joint Committees' abusive conduct of this investigation to date and the secret proceedings held pursuant thereto, in betrayal of House rules that presume proceedings be open to the public, present both circumstances. Therefore, judicial intervention to quash this subpoena is warranted.

In *Watkins v. United States*, 354 U.S. 178 (1957), in the context of the hearings conducted by Senator Joseph McCarthy in the late 1950s in which suspected communists were brought before congressional committees for the sole purpose of being identified as communists, the Supreme Court held that, while "[t]he public is of course entitled to be informed concerning the workings of government, [t]hat cannot be inflated into a general power to expose." *Id.* at 200. Similarly, this Court later held that if a congressional subpoena "is issued solely for sake of

exposure or intimidation, then it exceeds the legislative function of Congress.” *Hentoff v. Ichord*, 318 F. Supp. 1175, 1182 (D.D.C. 1970).

In the same context of McCarthyism, the Supreme Court overturned a congressional contempt conviction because the proceeding in which the alleged contempt took place violated House rules. *See Yellin v. United States*, 374 U.S. 109 (1963) (finding that House rules are written principally for the protection of witnesses and petitioner had the right to enforce them). *Yellin* has been consistently followed for the proposition that congressional conduct in violation of its own rules is subject to challenge in the courts. *See, e.g., Gojack v. United States*, 384 U.S. 702 (1966); *Liveright v. United States*, 347 F.2d 473 (D.C. Cir. 1965); *United States v. Grumman*, 227 F. Supp. 227 (D.D.C. 1964).

A. The Joint Committees’ Closed Interview Condition Enables Selective Leaks, Is Abusive To Witnesses, And Furthers No Legitimate Congressional Purpose

The abusive pattern of selective leaking by the Joint Committees is by now clearly established, and was in fact recently acknowledged by the Chair of one Committee. Over the preceding months, the members of the Joint Committees have consistently leaked the ostensibly secret testimony of many – if not all – of the witnesses who have come before them. For example:

Andrew McCabe: McCabe, the former FBI Deputy Director from 2016-2018, testified in closed session before the Joint Committees on or about December 21, 2017. Shortly after he testified, CNN reported, that McCabe purportedly “told lawmakers that Comey informed him of conversations he had with President Donald Trump soon after they happened,” including “[t]he January dinner where Trump asked for loyalty, and the February meeting where Trump asked Comey to go easy on former national security adviser Michael Flynn, who was under FBI investigation.” The article went on to report that two Republicans emerged from the hearing “saying McCabe’s testimony did not change their belief that Clinton got favorable treatment by the FBI when it decided not to pursue criminal charges over the handling of her private email server. The two Republicans reportedly declined to provide details about what McCabe said, citing the confidential nature of the interview,” but that apparently did not stop them from commenting about it. *See Exhibit G.*

Peter Strzok: Strzok, a former Senior Official in FBI's Counterintelligence Division, testified in closed session before the Joint Committees on or about June 27, 2018. Shortly after he testified, CNN reported that, during the interview, Strzok was asked how Special Counsel Robert Mueller had reacted to Strzok's "anti-Trump texts." According to "four sources from both parties," Strzok testified that Mueller did not press him about texts when they came to light.

Representative Meadows claimed after Strzok's testimony "I don't know how any reasonable person reads the texts and concludes there was not bias." *See* Exhibit J.

Lisa Page: Page, a former legal counsel to McCabe, testified in closed session before the Joint Committees on or about July 13, 2018. Shortly after she testified, The Hill reported quotes from Rep. John Ratcliffe of Page's private testimony that "In many cases, she admits that the text messages mean exactly what they say, as opposed to agent Strzok, who thinks we have all misinterpreted his own words on any text message that might be negative." *See* Exhibit K.

Representative Meadows also commented that Page's testimony was contradictory to other witness' testimony. *See* Exhibit K. Representative Louis Gohmert said "[M]ake no mistake . . . she's a Democrat. She wanted Hillary to win and she did not want Trump to win, and that's been obvious." *See* Exhibit L.

Jonathan Moffa: Moffa, an FBI Intelligence Analyst, testified before the Joint Committee in closed session on or about August 24, 2018. Shortly after his testimony, Fox News reported that a source with knowledge of the testimony initially told Fox News that Moffa said FBI personnel would use media reports based on information they leaked to justify applications for Foreign Intelligence Surveillance Act warrants. The source said Moffa, who worked with controversial former FBI officials Peter Strzok and Lisa Page, acknowledged this 'had been a practice in the past.' But after an FBI official disputed that claim, the source clarified that Moffa testified the FBI routinely uses media material to corroborate their work product, including FISA materials, but "never said directly 'we utilize FBI leaks for FISAs.'" *See* Exhibit E.

Bruce Ohr: Ohr, a Justice Department Lawyer, testified in closed session before the Joint Committees on or about August 28, 2018. Shortly after he testified, CNBC reported that an anonymous source said that Ohr learned from Christopher Steele that an unnamed former Russian intelligence official said Russian intelligence believed "they had Trump over a barrel." *See* Exhibit H.

Representatives Matt Gaetz, Mark Meadows, and Darrell Issa informed reporters that Ohr's testimony conveyed the FBI had "more significant doubts about the credibility of the Steele dossier than the bureau revealed." *See* Exhibit I.

James Baker: Baker, the FBI's General Counsel from 2014 to 2017, testified in closed session before the Joint Committees on or about October 18, 2018. Shortly after he testified, The Hill reported that, according to GOP lawmakers, Baker said "he believes

Deputy Attorney General Rod Rosenstein was serious when he told other officials he was considering wearing a wiretap during an Oval Office meeting with President Trump last year following Trump's firing of then-FBI director James Comey." *See* Exhibit F.

These leaks and related comments by Committee members, which purport to portray the testimony of the witnesses, while preventing the full scope of said testimony from being known to the public, unfairly prejudiced these witnesses and hardly served the supposed truth-seeking purpose of the Joint Committees' Investigation. Indeed, the track record of this particular investigation is so remarkable that even Chairman Gowdy acknowledges that the leaks call into question the legitimacy of the investigation. In televised remarks on November 25th, Chairman Gowdy acknowledged that Mr. Comey was right to be concerned about leaks:

I don't get a chance to say this very often, but I do think Jim Comey is right. Leaks are counterproductive whether Jim Comey is doing it, whether the FBI is doing it, or whether Congress is doing it ... I am sensitive to leaks. I hate leaks. I think they undercut the- the authenticity of the investigation¹

The congressional committee abuse condemned in *Watkins*, took the form of unfairly prejudicial light trained on a witness. Here, the form will be a shadow on the witness but bright lights for the Committee member who seeks partisan advantage by peddling a misleading account of the witness's testimony. In neither case is a proper legislative purpose or simple fairness to the witness served. This cannot be tolerated. As the Court observed in *Watkins*, "Investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible." 354 U.S. at 187.

B. The Joint Committees' Secret Interviews Violate House Rules

The obvious way to eliminate selective and inaccurate leaks and to curb the potential for abusive conduct by the Joint Committees is to make these proceedings open to the public. Public

¹ *See* Exhibit M.

access to congressional investigations is the norm, not the exception. The House operates under the presumption that its proceedings be open to the public, and Rules of the House generally require as much. *See Rules of the House of Representatives*, R. XI clause 2(g)(2) (115th Congress) (“Each hearing conducted by a committee or subcommittee . . . shall be open to the public, . . .”); *Committee on the Judiciary, Rules of Procedure*, R. III(b); *Committee on Oversight and Government Reform*, R. IX(a). Exceptions to the presumption of openness arise only when the testimony would endanger national security, compromise sensitive law enforcement information, or would tend to defame, degrade, or incriminate any person. *Id.*

None of these exceptions genuinely applies here, the Joint Committees’ insistence to the contrary notwithstanding, and accordingly the command to appear for a closed interview is incompatible with the House rules.² The clear pattern of leaks and other comments by members of the Joint Committees make plain that the request for secrecy in these interviews is not about secrecy, but a mechanism to permit selective and biased exposure of testimonial snippets that appear to support a political narrative while at the same time withholding from view any testimony that undermines that narrative. Viewed in this light, where Committee Members themselves clearly feel no obligation to abide by the secrecy of the interviews, the Joint Committees’ invocation of the need for secrecy is clearly pretextual.

To the extent that the Joint Committees’ purported need for secrecy arises from concern that classified subject matters will be addressed, arrangements can easily be made to balance the

² As Representative Gowdy stated on November 25, 2018, one reason for the closed-door interview process of the Joint Committee Investigation is logistical – that conducting a hearing about “17 months worth of decision making [by FBI and DOJ]” cannot be undertaken effectively if the hearing was open to all members of both committees who would then each be limited to five minutes of questions for the witness. *See Exhibit M.* However unwieldy that process may be, it is a problem that the Committees need to resolve without forsaking the public’s right to know unfiltered testimony.

presumption of openness with the need to protect such information. The bulk of the deposition can, for instance, occur in an open session, with classified matters – if any – postponed to the end of the hearing, when they can be addressed in a limited, closed session. In any event, Mr. Comey would refuse to accept a temporary clearance in the context of a fully closed interview, and there is no precedent that gives the House the authority to compel Mr. Comey to accept one.

Mr. Comey's refusal is well considered. On numerous occasions, Mr. Comey has been falsely accused of leaking classified information.³ He has no desire to testify in secret where he has a reasonable concern that such testimony could potentially expose him to further scurrilous allegations that he has made unauthorized disclosures of classified information.

Last, and most obviously, Mr. Comey has communicated to the Joint Committees numerous times that he would welcome the opportunity to testify in a public setting concerning the Russia and Clinton investigations. As detailed above, Mr. Comey has already provided substantial public testimony about these subjects. The secrecy of these sessions is clearly not designed for the protection or benefit of the witness.

Because the need for secrecy here is pretextual, because the Joint Committees have abused their powers with selective leaks, and because Mr. Comey is willing to testify in public, the Joint Committees' insistence that Mr. Comey appear in private should be closely scrutinized to determine whether the exception to the presumption of openness applies. Even the most limited scrutiny reveals that the Joint Committees' preference for closed testimony over public testimony by Mr. Comey furthers no legitimate purpose and is unfair to the witness. Because of

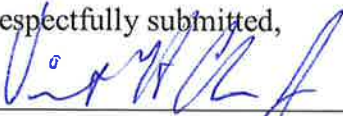
³ In fact, the *New York Times* reported on November 20, 2018 that, as recently as the spring of 2018, President Trump told White House counsel that he wanted to prosecute Mr. Comey, for among other things, leaking classified information. The *Times* also reported in the same article that there was no evidence that Mr. Comey had, in fact, disclosed classified information. See Exhibit N.

this abuse, and because no legitimate purpose is served by the secrecy of the testimony, the subpoena must be quashed.

For the foregoing reasons, we respectfully ask that the Court grant this Motion to quash the congressional subpoena and stay the proceedings thereunder.

Dated: November 29, 2018

Respectfully submitted,



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Attorneys for James B. Comey

**Pro Hac Vice Admission to be Requested*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

*IN RE SUBPOENA OF JAMES COMEY BY
AUTHORITY OF THE HOUSE OF
REPRESENTATIVES OF THE CONGRESS OF THE
UNITED STATES OF AMERICA*

Miscellaneous Case No.

**AFFIRMATION OF DAVID N. KELLEY, ESQ. IN SUPPORT OF
MOTION TO QUASH SUBPOENA AND STAY PROCEEDINGS PENDING DECISION**

I, DAVID N. KELLEY, ESQ., affirm under penalty of perjury that:

1. I am a partner of the law firm Dechert LLP (“Dechert”), counsel to James B. Comey. I respectfully submit this affirmation in support Mr. Comey’s motion to quash the congressional subpoena and motion to stay proceedings pending decision.
2. Attached as Exhibit A is a true and correct copy of the Subpoena by the House Judiciary Committee for James Comey, dated November 21, 2018.
3. Attached as Exhibit B is a true and correct copy of the email correspondence between David Kelley and Chief Investigative Counsel to the U.S. House of Representatives, Arthur Baker, dated September 10, 2018.
4. Attached as Exhibit C is a true and correct copy of the letter from Chairman of the Committee on the Judiciary Bob Goodlatte and Chairman of the Committee on Oversight and Government Reform Trey Gowdy requesting James Comey’s appearance for a transcribed interview, dated September 21, 2018.
5. Attached as Exhibit D is a true and correct copy of the email correspondence between David Kelley and Chief Investigative Counsel to the U.S. House of Representatives,

Arthur Baker, with the attached letter from David Kelley to the House of Representatives declining the House Judiciary Committee's request for a private interview, dated October 1, 2018.

6. Attached as Exhibit E is a true and correct copy of the Fox News article titled "GOP rep touches off firestorm with claim FBI leaked info, used stories to get FISA warrants," dated August 28, 2018.

7. Attached as Exhibit F is a true and correct copy of The Hill's article titled "Former FBI lawyer speaks with House lawmakers on Rosenstein, 2016," dated October 18, 2018.

8. Attached as Exhibit G is a true and correct copy of the CNN article titled "Top FBI official grilled on Comey, Clinton in Hill testimony," dated December 22, 2017.

9. Attached as Exhibit H is a true and correct copy of the CNBC article titled "Justice Department lawyer Bruce Ohr, frequently targeted by President Trump, was told Russia had 'Trump over a barrel,'" dated October 31, 2018.

10. Attached as Exhibit I is a true and correct copy of the Politico article titled "GOP lawmakers grill DOJ official Ohr over Trump dossier," dated October 31, 2018.

11. Attached as Exhibit J is a true and correct copy of the CNN article titled "Embattled FBI agent meets with Congress behind closed doors in 11-hour marathon," dated June 28, 2018.

12. Attached as Exhibit K is a true and correct copy of The Hill's article titled "House GOP questions FBI lawyer for second day," dated July 16, 2018.

13. Attached as Exhibit L is a true and correct copy of the Washington Examiner's article titled "Louie Gohmert: Lisa Page is giving us 'more insights' into Russia Investigation," dated July 17, 2018.

14. Attached as Exhibit M is a true and correct copy of CBS News' "Transcript: Rep. Trey Gowdy on 'Face the Nation,'" dated November 25, 2018.

15. Attached as Exhibit N is a true and correct copy of The New York Times' article titled "Trump Wanted to Order Justice Dept. to Prosecute Comey and Clinton," dated November 20, 2018.

Dated: New York, New York
November 29, 2018



David N. Kelley, Esq.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

*IN RE SUBPOENA OF JAMES COMEY BY
AUTHORITY OF THE HOUSE OF
REPRESENTATIVES OF THE CONGRESS OF THE
UNITED STATES OF AMERICA*

Miscellaneous Case No.

**DECLARATION OF DAVID N. KELLEY, ESQ. IN SUPPORT OF
MOTION TO QUASH SUBPOENA AND STAY PROCEEDINGS PENDING DECISION**

DAVID N. KELLEY, ESQ., under penalty of perjury pursuant to 28 U.S.C. § 1746,
declares:

1. I am a partner of the law firm Dechert LLP (“Dechert”), counsel to James B. Comey. I am a member in good standing of the Bar of the State of New York and the Bar of the State of Connecticut, and my admission to this Court *pro hac vice* is pending.
2. I respectfully submit this Declaration in support of Mr. Comey’s motion to quash the congressional subpoena and motion to stay proceedings pending decision, which motions are filed concurrently herewith. Unless otherwise indicated, I have personal knowledge of the facts set forth herein. Other allegations are made upon information and belief based on documents and correspondence I have reviewed.
3. James B. Comey was appointed by President Obama and served as Director of the U.S. Federal Bureau of Investigation (“FBI”) from September 4, 2013, until he was fired by President Trump on May 9, 2017.

4. While FBI Director, Mr. Comey oversaw, among numerous other investigations, the investigations of Secretary Clinton's handling of classified emails and alleged Russian interference with the 2016 general election (the "Clinton and Russian investigations").

5. While FBI Director, and after his tenure as Director, Mr. Comey provided open testimony or closed-door briefings on these matters on numerous occasions, to among others, the House Oversight and Government Reform Committee (July 7, 2016), House Judiciary Committee (September 28, 2016), House Permanent Select Committee on Intelligence (March 20, 2017), United States Senate Judiciary Committee (May 3, 2017), and the Senate Select Committee on Intelligence (June 8, 2017).

6. While FBI Director, Mr. Comey met on several occasions with full Senate and House intelligence committees as well as with chairs and ranking members of those committees to provide classified briefings regarding the Russian investigation.

7. While FBI Director, Mr. Comey possessed numerous security clearances in order to lawfully handle classified information. As is customary for departing federal officials, Mr. Comey relinquished all of his clearances and was "read out" of all the classified compartments and programs to which he had access as Director on or about August 2017, notwithstanding President Trump's announcement, many months later in July of 2018, that he intended to strip Mr. Comey of all of his clearances.

8. In or about September 2018, Mr. Comey was informed by counsel to the Judiciary Committee of the United States House of Representatives, ("Judiciary Committee"), that the Judiciary Committee, together with the House Committee on Oversight and Government Reform (the "Joint Committees"), were conducting a joint inquiry into the investigations by the FBI and Department of Justice ("DOJ") of certain conduct of former Secretary of State Hillary Clinton,

and the investigation of allegations of possible Russian interference in the 2016 Presidential election (the “Joint Committee Investigation”). *See* Exhibit B.

9. Counsel noted in particular that the Joint Committees intended to ask Mr. Comey questions about the FBI and DOJ’s investigations of Secretary Clinton’s handling of classified materials, her use of private email servers, and other matters concerning the 2016 election, as well as the FBI and DOJ’s subsequent recommendation that Secretary Clinton not be prosecuted. *See* Exhibit B.

10. In a letter dated September 21, 2018, Judiciary Chairman Bob Goodlatte and Representative Trey Gowdy requested Mr. Comey to appear voluntarily for a closed-door transcribed interview by the Joint Committees concerning “decisions made and not made by the FBI and DOJ during the 2016 election.” *See* Exhibit C.

11. Judiciary Committee Counsel also indicated that for purposes of the interview Mr. Comey would be given a temporary or “provisional” clearance so that he could discuss classified information.

12. In a letter dated October 1, 2018, Mr. Comey notified the Joint Committees that he would decline their invitation to sit for the proposed private interview but that he welcomed the opportunity to provide sworn testimony regarding the subject matters of the Joint Committee Investigation at a public hearing. *See* Exhibit D.

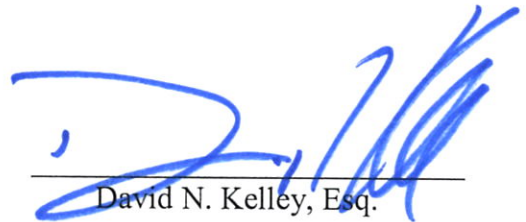
13. The Joint Committees acknowledged receipt of the October 1 letter, but made no further response until the subpoena was issued on November 21, 2018. *See* Exhibit D.

14. On November 21, 2018, the Judiciary Committee served Mr. Comey with a subpoena requiring Mr. Comey’s testimony at a closed-door deposition on December 3, 2018 at the Rayburn House Office building in Washington, D.C. *See* Exhibit A.

15. For the reasons set forth in the motion filed concurrently herewith, Mr. Comey respectfully request that: (1) the motion to quash the congressional subpoena be granted and (2) the Court order a stay in congressional proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 29, 2018



David N. Kelley, Esq.

Exhibit A

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To James Comey, Former Director of the Federal Bureau of Investigation

You are hereby commanded to be and appear before the
Committee on the Judiciary

of the House of Representatives of the United States at the place, date, and time specified below.

- ☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____

Time: _____

- ☒ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 2138 Rayburn House Office Building

Date: December 3, 2018

Time: 10:00 a.m.

- ☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

To any authorized staff member or the U.S. Marshals Service

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 21st day of November, 2018.



Chairman or Authorized Member

Attest:



Clerk

PROOF OF SERVICE

Subpoena for

James Comey, Former Director of the Federal Bureau of Investigation

Address c/o David N. Kelley, Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036

before the Committee on the Judiciary

*U.S. House of Representatives
115th Congress*

Served by (print name) Arthur Baker

Title Chief Investigative Counsel

Manner of service Electronic delivery

Date 11/21/2018

Signature of Server /s Arthur Baker

Address 2138 Rayburn House Office Building

Washington, D.C. 20515

Exhibit B

From: Baker, Arthur [<mailto:Arthur.Baker@mail.house.gov>]
Sent: Monday, September 10, 2018 12:58 PM
To: Kelley, David <David.Kelley@dechert.com>
Subject: Request to interview James Comey- House Judiciary Committee

Mr. Kelley,

I am counsel to the Committee on the Judiciary (Majority staff) of the United States House of Representatives. As you may know, the Committee on the Judiciary and the Committee on Oversight and Government Reform are conducting oversight of the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) and their investigation, subsequent recommendation of no prosecution, and related matters concerning former Secretary of State Hillary Clinton's handling of classified materials, her use of private email servers, and other matters concerning the 2016 election. It is our understanding that you represent Mr. James Comey, formerly the Director of the Federal Bureau of Investigation. We would like to interview Mr. Comey concerning the matters we are investigating. In that regard, could you please advise me when you could present Mr. Comey for an interview at the House Judiciary Committee in Washington DC? I can discuss this matter further at your convenience. Thank you.

Arthur Baker
Investigative Counsel
Arthur.Baker@mail.house.gov
202-225-5727

Exhibit C

Congress of the United States
House of Representatives
Washington, DC 20515

September 21, 2018

Mr. David N. Kelley, Esq.
Dechert, LLP
1095 Avenue of the Americas
New York City, NY 10036-6797

Dear Mr. Kelley:

The House Committees on the Judiciary and the House Committee on Oversight and Government Reform are investigating decisions made and not made during the 2016 election by the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

As part of this investigation, the Committees need to interview your client, former FBI Director James Comey. We request you promptly make Mr. Comey available for a transcribed interview.

Please contact Arthur Baker of the Committee on the Judiciary staff at (202)-225-5727 to make arrangements, or if you have any questions. Thank you for your attention to this matter.

Sincerely,



Bob Goodlatte
Chairman
Committee on the Judiciary



Trey Gowdy
Chairman
Committee on Oversight &
Government Reform

cc: The Honorable Jerrold Nadler
Ranking Member, Committee on the Judiciary

The Honorable Elijah Cummings
Ranking Member, Committee on Oversight and Government Reform

Exhibit D

From: Baker, Arthur [<mailto:Arthur.Baker@mail.house.gov>]
Sent: Monday, October 1, 2018 12:54 PM
To: Kelley, David <David.Kelley@dechert.com>
Subject: RE: James Comey

Thanks. Let me review and I will be in touch.

From: Kelley, David [<mailto:David.Kelley@dechert.com>]
Sent: Monday, October 01, 2018 12:20 PM
To: Baker, Arthur
Cc: Grooms, Susanne Sachsman; Hiller, Aaron
Subject: RE: James Comey

Please see the attached correspondence. Happy to discuss at your convenience.

David N. Kelley
Partner

Dechert LLP
1095 Avenue of the Americas
New York, NY 10036-6797
+1 212 698 3580
+1 212 698 3599 Fax
david.kelley@dechert.com
www.dechert.com

From: Baker, Arthur [<mailto:Arthur.Baker@mail.house.gov>]
Sent: Friday, September 21, 2018 6:05 PM
To: Kelley, David <David.Kelley@dechert.com>
Subject: James Comey

Mr. Kelley,
Following up on our previous telephone call and email requesting to interview Mr. Comey.



Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036-6797
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+1 212 698 3599 Fax
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DAVID N. KELLEY

david.kelley@dechert.com
+1 212 698 3580 Direct
+1 212 698 0460 Fax

October 1, 2018

Congress of the United States
House of Representatives
Washington, DC 20515

Dear Representatives Goodlatte and Gowdy:

I write on behalf of my client, former FBI Director James B. Comey, and in response to your letter to me dated September 21, 2018, in which you, on behalf of the House Committee on the Judiciary and the Committee on Oversight and Government Reform, request a transcribed, closed door interview of Mr. Comey. We understand from your correspondence that your committees are jointly investigating "decisions made and not made during the 2016 election by the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI)."

Mr. Comey respectfully declines your request for a private interview. He would, however, welcome the opportunity to testify at a public hearing. Given that Mr. Comey no longer has a security clearance, we do not anticipate the public setting to present concerns about the disclosure of classified information. Moreover, we also expect that, because any information about which you may inquire was acquired by Mr. Comey while he was in the employ of the FBI, you will obtain in advance the necessary approvals from the FBI for Mr. Comey to disclose FBI information that may be responsive to your examination.

Because Mr. Comey has a variety of commitments in the coming months, please contact me as soon as possible to schedule a hearing date.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. N. Kelley", written over the printed name.

David N. Kelley

cc: The Honorable Jerrold Nadler
Ranking Member, Committee on the Judiciary

The Honorable Elijah Cummings
Ranking Member, Committee on Oversight and Government Reform

4846796

Exhibit E



GOP rep touches off firestorm with claim FBI leaked info, used stories to get FISA warrants

By Brooke Singman, ,

Published August 28, 2018

Fox News

A Republican congressman touched off a firestorm Tuesday after claiming on Twitter that his office had information suggesting the FBI leaked information to the press and used the resulting articles to help obtain surveillance warrants.

"We've learned NEW information suggesting our suspicions are true: FBI/DOJ have previously leaked info to the press, and then used those same press stories as a separate source to justify FISA's," House Freedom Caucus Chairman Mark Meadows, R-N.C., tweeted overnight.

The claim stemmed in part from FBI intelligence analyst Jonathan Moffa's Friday testimony behind closed doors before the House Judiciary and Oversight committees.

But what exactly Moffa told the committees is a matter of dispute.

A source with knowledge of the testimony initially told Fox News that Moffa said FBI personnel would use media reports based on information they leaked to justify applications for Foreign Intelligence Surveillance Act warrants, echoing Meadows. The source said Moffa, who worked with controversial former FBI officials Peter Strzok and Lisa Page, acknowledged this "had been a practice in the past."

But an FBI official pushed back, telling Fox News the initial claims about Moffa's testimony were incorrect.

The source later clarified that Moffa testified the FBI routinely uses media material to corroborate their work product, including FISA materials, but "never said directly 'we utilize FBI leaks for FISAs.'" The source maintained, however, that the FBI has a "culture of leaking for their own gain" and uses media reports to support their work: "There's quite a bit of evidence raising concerns that the FBI engages in this without Moffa saying it."

Republicans have long questioned to what extent leaked information, related to the unverified anti-Trump dossier, was used as a basis for surveillance warrants against former Trump adviser Carter Page in 2016 -- when the bureau was led by James Comey and deputy Andrew McCabe.

The source told Fox News that Moffa did not specifically confirm whether leaking was employed with regard to the dossier.

Another source familiar with Moffa's testimony offered a more nuanced version of events. The source told Fox News that Moffa said the FBI keeps track of open source reports related to their cases -- and when asked whether a FISA application would reference a news account, he said it could be possible, hypothetically, but the FBI aims to find better information.

The source stressed that this was not related to any specific situation and that Moffa did not suggest this was a common practice at the FBI.

Meadows, though, largely stood by his claims -- yet also offered a clarification in a Tuesday afternoon statement to Fox News, drawing a distinction between what Moffa testified and what his office has learned from other materials.

"Jonathan Moffa made it clear to the committee the FBI routinely uses media reports to corroborate analytic work product. We have emails and texts plainly showing the FBI leaks to the media, raising major red flags. If FBI executives want the American people to believe they haven't used leaks to their advantage, they are not being honest," Meadows said in the statement, while saying this includes FISA materials.

Meadows also told Fox News' "America's Newsroom" earlier Tuesday that the committee had evidence of the FBI's practice that would be "hard to refute."

"We know that some people at the Department of Justice and the FBI actually gave information to the media, then the stories were reported. Then they used those reports to justify further investigations," Meadows said. "You know, that's like saying, we're going to incriminate on one hand, and be the jury on the other. It just doesn't work that way."

The Daily Caller first reported on the specifics of Moffa's claims.

The Trump dossier, which contained salacious allegations about the then-presidential candidate, was compiled by ex-British spy Christopher Steele. Steele, who was also working as an FBI source, had been hired by research firm Fusion GPS to compile details for the dossier, which was funded by the Clinton campaign and Democratic National Committee.

One source familiar with Moffa's testimony told Fox News that his statements raise concerns that the bureau indeed used this practice with the dossier, referencing an article written by Yahoo! News' Michael Isikoff.

The Isikoff article was published on Sept. 23, 2016, focusing on Page's July 2016 trip to Moscow. According to a House GOP memo earlier this year, the Isikoff article did "not corroborate the Steele dossier" as the article was "derived from information leaked by Steele himself to Yahoo News." Yet the subsequent FISA application to spy on Page cited the Isikoff article, among other pieces of evidence.

"The [Carter] Page FISA application incorrectly assesses that Steele did not properly provide information to Yahoo News," the memo read. "Steele has admitted in British court filings that he met with Yahoo News—and several other outlets—in September 2016 at the direction of Fusion GPS."

Moffa served on the FBI's "Mid-Year Exam," the code name for the bureau's investigation into Hillary Clinton's handling of classified information and use of a private email server while secretary of state.

Moffa's name often appeared in text message conversations between former FBI officials Strzok and Page, who came under scrutiny for their anti-Trump and politically charged exchanges. One text message exchange between the two on July 24, 2016 discussed their need to read "Moffa's thing," referencing an FBI "302"—which is an interview or witness deposition in an FBI investigation.

DOCUMENTS SUGGEST POSSIBLE COORDINATION BETWEEN CIA, FBI, OBAMA WH AND DEM OFFICIALS EARLY IN TRUMP-RUSSIA PROBE: INVESTIGATORS

Another reference was on Aug. 8, 2016.

"Hey no update yet, waiting on Moffa, he's in with Dina at mtg scheduled to end at 11," Strzok texted Page. An hour later, he added: "Hey, talked to him, will let him fill you in. Internal joint cyber cd Intel piece for D, scenesetter for McDonough brief, Trainor [head of FBI cyber division] directed all cyber info be pulled. I'd let Bill and Jim hammer it out first, though it would be best for D to have it before the Wed WH session."

In the texts, "D" referred to former FBI Director James Comey, and "McDonough" referred to former chief of staff for former President Barack Obama, Denis McDonough, according to GOP investigators.

Page left the bureau in May, and Strzok was fired earlier this month.

On Tuesday, House lawmakers have the chance to question Justice Department senior official Bruce Ohr on the same FBI practice, as Ohr testifies behind closed doors.

Ohr had frequent contact with Steele before and after the publication of the dossier, and the FBI's ultimate decision to cut ties with the ex-British spy. Ohr's wife, Nellie Ohr, worked for Fusion GPS at the time of the creation of the dossier.

Brooke Singman is a Politics Reporter for Fox News. Follow her on Twitter at @brookefoxnews.

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Exhibit F



Former FBI lawyer speaks with House lawmakers on Rosenstein, 2016

BY OLIVIA BEAVERS - 10/18/18 04:09 PM EDT

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James Baker testified behind closed-doors on Thursday before two GOP-led House panel about his role as the FBI general counsel during the 2016 presidential election.

The meeting marks Baker's second recent interview before the House Judiciary and Oversight and Government Reform committees, panels which are leading a joint investigation into FBI and Department of Justice (DOJ) decision-making during the 2016 election.

GOP lawmakers say Baker, who appeared before the panels earlier this month, told congressional investigators that he believes Deputy Attorney General Rod Rosenstein was serious when he told other officials he was considering wearing a wiretap during an Oval Office meeting with President Trump last year following Trump's firing of then-FBI director James Comey.

The New York Times, which published the bombshell report disclosing the wiretap discussion, also said Rosenstein raised the possibility of the 25th Amendment, talking about possibly removing Trump from office with the help of other Cabinet officials.

Rosenstein and the DOJ have fiercely disputed the story, stating that some comments were made in jest. Baker, however, told congressional investigators and a select group of GOP lawmakers that he believed Rosenstein meant them.

"It is deeply troubling that you got the former general counsel of the FBI saying in their reactions to Rod Rosenstein that there was going to be a wire worn by him with the president of the United States and that there

was discussions he was having with cabinet members about invoking the 25th Amendment," Rep. [Matt Gaetz](#) (R-Fla.) also told reporters.

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Despite rumors that Rosenstein's job security was threatened, Trump recently told reporters that he has no plans to fire the top DOJ official following a private meeting between the two on Air Force One.

Although it is unclear what new information lawmakers gleaned from this second meeting with Baker, conservative House members appeared to ramp up their attacks against Rosenstein.

Rep. [Mark Meadows](#) (R-N.C.), one of the president's strongest allies and a fierce critic of the FBI and DOJ, called on Rosenstein to immediately resign after the interview concluded.

"I think that it's time that Rod Rosenstein steps down," Meadows told reporters, citing reasons like "misplaced" priorities, lack of candor, and "unwillingness" to submit to congressional oversight.

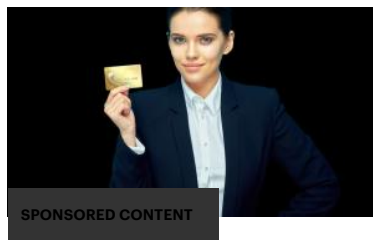
"He should do so immediately and in doing that, I think it would serve the country well, it would serve this president well," he added.

House Freedom Caucus members previously said Rosenstein should either testify before Congress or resign from his post.

Baker, whom GOP lawmakers described as being cooperative, did not respond to reporters' questions about his testimony. Baker retired earlier this year from the bureau and now works for the Brookings Institution, a D.C.-based think tank.

Gaetz, however, complained that the FBI general counsel present for the interview would not allow Baker to answer a series of questions about topics like surveillance of Trump campaign aides because it is tied to ongoing investigations. Lawmakers, however, said Rosenstein was one topic they discussed.

The joint investigation, derided by Democrats as an effort to discredit or distract from special counsel [Robert Mueller's](#) probe, has been hotly sought by conservative members, who say there is ample evidence of bias against Trump among the top brass at the FBI and DOJ.



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Baker is one of a handful of former FBI and DOJ officials who have met with the committee in recent weeks.

Nellie Ohr, Bruce Ohr's wife who worked as a contractor for Fusion GPS during the presidential election, is slated to testify before the committee on Friday.

TAGS [ROD ROSENSTEIN](#) [ROBERT MUELLER](#) [MARK MEADOWS](#) [DONALD TRUMP](#) [JAMES COMEY](#)
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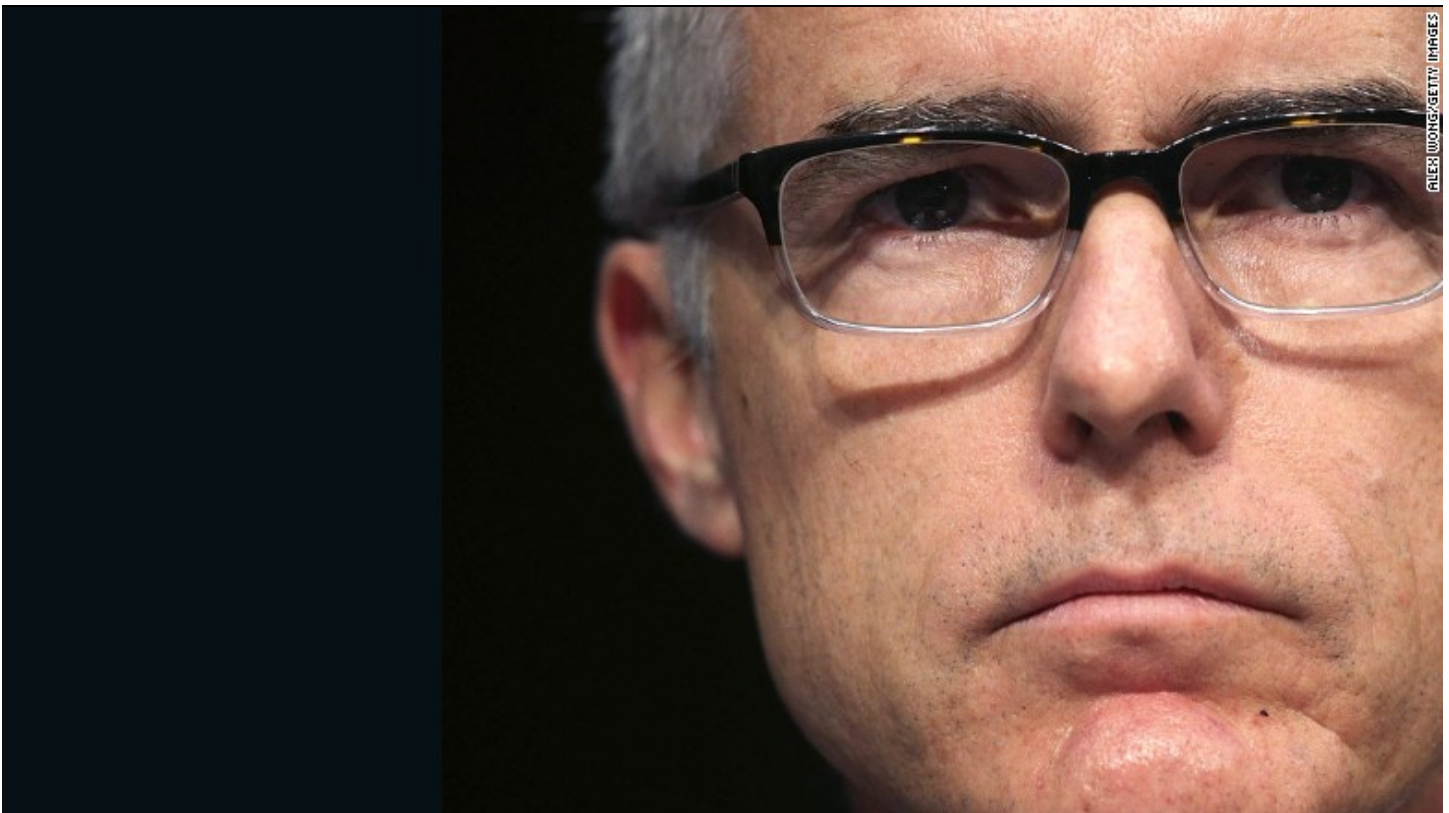
Exhibit G

THERUSSIAINVESTIGATION

Top FBI official grilled on Comey, Clinton in Hill testimony

By [Manu Raju](#) and [Jeremy Herb](#), CNN

Updated 6:01 AM ET, Fri December 22, 2017



FBI Deputy Director comes to Comey's defense 01:13

Washington (CNN) — FBI Deputy Director Andrew McCabe faced numerous questions this week about his interactions, conversations and correspondence with his onetime boss, former FBI Director James Comey, spanning both the FBI's Russia investigation and its probe into Hillary Clinton's private email server, according to multiple sources from both parties with knowledge of his testimony.

In private testimony before the House Intelligence Committee this week, McCabe told lawmakers that Comey informed him of conversations he had with President Donald Trump soon after they happened, according to three sources with knowledge of the matter.



Related Article: Congressional Russia investigators grill FBI deputy director

The testimony suggests McCabe could corroborate Comey's account, including Trump's ask that Comey show him loyalty, which the President has strongly disputed. Comey previously testified that he briefed some of his senior colleagues at the FBI about this conversation with Trump.

[RELATED: Tracking the Russia investigations](#)

McCabe appeared for more than 16 hours of testimony behind closed doors in two sessions this week before members of the House Intelligence, Oversight and Judiciary committees, amid growing calls for his firing from Republicans critical of the FBI's handling of both investigations.

Intelligence Committee Republicans also grilled McCabe about how the FBI used the dossier compiled by a British agent alleging collusion between Trump and Russia. Some

Republicans were dissatisfied with the responses, according to the sources.

Related Article: How Mueller's path was muddled in two weeks

Thursday, before the House Judiciary and Oversight committees, McCabe faced intense questioning from Republicans about the FBI's handling of the Clinton email investigation, which many in the GOP believe was unfair. The panel's Republicans forced McCabe to answer questions about internal emails they believe showed Comey mishandled the investigation, according to multiple sources.

The mood, according to Illinois Democratic Rep. Raja Krishnamoorthi, was "tense."

"All this time on Clinton emails and dragging the FBI in to talk about Clinton instead of the real crime: Russian interference in our democracy," said Krishnamoorthi, who sits on the House Oversight Committee.

The FBI declined to comment.

But two Republicans emerged from the Thursday hearing saying McCabe's testimony did not change their belief that Clinton got favorable treatment by the FBI when it decided not to pursue criminal charges last year over the handling of her private email server. They declined to provide details about what McCabe said, citing the confidential nature of the interview.

In the heat of the presidential campaign last summer, Comey publicly announced that Clinton would not be charged in the email server investigation. Comey said "no reasonable prosecutor would bring such a case," primarily because investigators didn't determine that Clinton intentionally schemed to break federal law.

Drawing the ire of Republicans, Comey also said the investigation found "evidence of potential violations" of the statutes that dictate how classified information should be handled.

Rep. Jim Jordan, a Republican who has been a sharp critic of the FBI's handling of the Clinton email investigation, told CNN: "Everything that I've heard reinforces what I believed before" McCabe came in for the Thursday interview.

On Thursday, House Judiciary Committee Chairman Bob Goodlatte defended the two panels' focus on the Clinton email investigation, saying it is consistent with their focus on FBI decisions made in the 2016 elections. McCabe was the first witness.

"This investigation was announced two months ago, and this is the first interview and we are gathering documents," Goodlatte, R-Virginia, told CNN.

Told that Democrats called the probe an effort to distract from the Russia investigation, Goodlatte said: "That's definitely not right."

Criticism of FBI from Republicans

McCabe has come under fire in recent days from Republicans amid the release of anti-Trump text messages sent between FBI agent Peter Strzok, who was removed from Justice Department special counsel Robert Mueller's team when the messages were discovered, and FBI lawyer Lisa Page. The text messages also criticized liberals, including Sen. Bernie Sanders and Chelsea Clinton.

Several Republicans, including Senate Judiciary Chairman Chuck Grassley, have called for his removal.

The criticism of McCabe comes as a growing number of Republicans are questioning the credibility of Mueller's investigation into possible collusion between Trump's team and Russian officials.

Republicans have pointed to the anti-Trump texts as well as connections between the FBI and Fusion GPS, the firm that paid for the opposition research dossier on Trump and Russia.

But Democrats argue that the Republican criticisms of McCabe and the FBI are an effort to undermine Mueller as his investigation ramps up, and to give Trump cover should he try to remove Mueller, a step the White House insists is not on the table.

"This hearing is part of an ongoing Republican attempt to divert attention," said Rep. Jerrold Nadler of New York, the top Democrat on the House Judiciary Committee. "I mean, this hearing occurred with very little prior notice, with weeks before the relevant documents are obtained, but although we're expecting the relevant documents. And suddenly we're told we have an emergency hearing."

First in a series with FBI witnesses

Thursday's hearing is the first connected to the joint investigation into Comey's handling of the Clinton email case that was launched earlier this year by the Oversight and Judiciary committees.

Both sides say they expect this is the first in a series of hearings involving FBI witnesses, and the two committee have asked for at least two other senior FBI officials to appear.

Thursday's hearing behind closed doors was considered "confidential," but not classified, according to Rep. Elijah Cummings, the top Democrat on the House Oversight panel.

As part of the agreement, McCabe did not discuss topics that touched on Mueller investigation, Cummings said.

But the House Intelligence Committee's hearing, which lasted roughly eight hours Tuesday, did touch on topics Mueller's inquiry appears to be covering, sources said.

In particular, the panel pressed McCabe to discuss his interactions with Comey, who contended that on multiple occasions Trump reached out to him, including over dinner.

Earlier this year, Comey testified that he briefed senior FBI officials about at least two conversations with Trump: The January dinner where Trump asked for loyalty, and the February meeting where Trump asked Comey to go easy on former national security adviser Michael Flynn, who was under FBI investigation. In his bombshell testimony before the Senate Intelligence Committee in June, Comey did not identify McCabe by name, only saying that he briefed "the FBI leadership team" about his interactions with Trump.

McCabe testified this week that Comey did in fact tell him about these conversations.

Exhibit H

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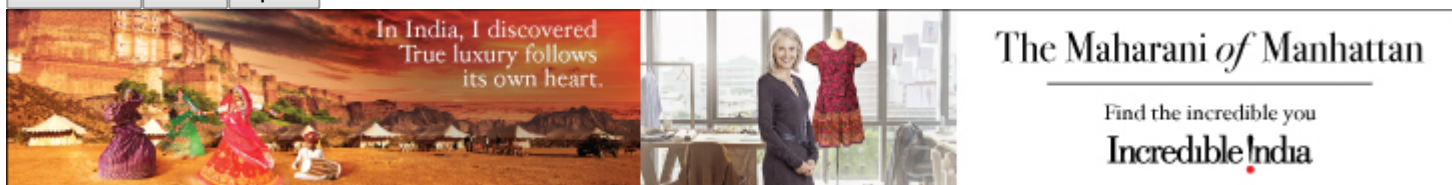
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[Politics](#)

Justice Department lawyer Bruce Ohr, frequently targeted by President Trump, was told Russia had ‘Trump over a barrel’

Published Fri, Aug 31 2018 • 11:34 AM EDT | Updated Fri, Aug 31 2018 • 1:05 PM EDT

AP

Key Points

- Senior Justice Department lawyer Bruce Ohr says that he was told two years ago that Russian intelligence believed it had Donald Trump “over a barrel,” according to multiple people familiar with the encounter.

- Ohr also says he learned that a Trump campaign aide had met with higher-level Russian officials than the aide had acknowledged, the people said.
- The previously unreported details of Ohr's breakfast with former British spy Christopher Steele reveal an exchange of potentially explosive information about Trump between two men the president has relentlessly sought to discredit.



Former associate deputy U.S. attorney general Bruce Ohr arrives to testify behind closed doors before the House Judiciary and House Oversight and Government Reform Committees, August 28, 2018.
Chris Wattie | Reuters

A senior [Justice Department](#) lawyer says a former British spy told him at a breakfast meeting two years ago that Russian intelligence believed it had Donald Trump “over a barrel,” according to multiple people familiar with the encounter.

The lawyer, [Bruce Ohr](#), also says he learned that a [Trump campaign](#) aide had met with higher-level Russian officials than the aide had acknowledged, the people said.

The previously unreported details of the July 30, 2016, breakfast with [Christopher Steele](#), which Ohr described to lawmakers this week in a private interview, reveal an exchange of potentially explosive information about Trump between two men the president has relentlessly sought to discredit.

They add to the public understanding of those pivotal summer months as the [FBI](#) and intelligence community scrambled to untangle possible connections between the Trump campaign and [Russia](#). And they reflect the concern of Steele, a longtime FBI informant whose Democratic-funded research into Trump ties to Russia was compiled into a dossier, that the Republican presidential candidate was possibly compromised and his urgent efforts to convey that anxiety to contacts at the FBI and Justice Department.

The people who discussed Ohr’s interview were not authorized to publicly discuss details of the closed session and spoke to The Associated Press on condition of anonymity.



and Moscow.

Trump and some of his supporters in Congress have also accused the FBI of launching the entire Russia counterintelligence investigation based on the dossier. But memos authored by Republicans and Democrats and

declassified this year show the probe was triggered by information the U.S. government received earlier about the Russian contacts of then-Trump campaign foreign policy adviser, George Papadopoulos.

The FBI's investigation was already under way by the time it received Steele's dossier, and Ohr was not the original source of information from it.

One of the meetings described to House lawmakers Tuesday was a Washington breakfast attended by Steele, an associate of his and Ohr. Ohr's wife, Nellie, who worked for the political research firm, Fusion GPS, that hired Steele, attended at least part of the breakfast.

Ohr also told Congress that Steele told him that Page, a Trump campaign aide who traveled to Moscow that same month and whose ties to Russia attracted FBI scrutiny, had met with more senior Russian officials than he had acknowledged meeting with.



Ohr said he met in late December 2017 with two senior Justice Department officials, Scott Skoville and James Crowell, who told him they were unhappy he had not proactively disclosed his meetings with Steele. They said he was being stripped of his associate deputy attorney post as part of a planned internal reorganization, people familiar with Ohr's account say.

He met again soon after with one of the officials, who told him Attorney General Jeff Sessions and Deputy Attorney General Rod Rosenstein did not believe he could continue in his current position as director of a drug grant-distribution program — known as the Organized Crime and Drug Enforcement Task Force.

Sessions and Rosenstein, Ohr was told, did not want him in the post because it entailed White House meetings and interactions, the people said.

Justice Department spokeswoman Sarah Isgur Flores declined to comment.

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Exhibit I

POLITICO

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Justice Department official Bruce Ohr (right) has become the Trump allies' latest focus in their efforts to raise questions about the investigators who ran the probe into the Trump campaign's contacts with Russia. | Pablo Martinez Monisvais/AP Photo

GOP lawmakers grill DOJ official Ohr over Trump dossier

By **KYLE CHENEY** | 08/28/2018 11:18 AM EDT | Updated 08/28/2018 12:57 PM EDT

Bruce Ohr, the Justice Department official whose longtime relationship with former British spy Christopher Steele has drawn intense scrutiny from Capitol Hill Republicans, is facing questions Tuesday about the timing of his contacts with Fusion GPS, the firm that worked with Steele to create and disseminate his so-called dossier about President Donald Trump's relationship with Russia.

Ohr, who appeared for a closed-door interview in a Capitol office building, has become the Trump allies' latest focus in their efforts to raise questions about the investigators who ran the probe into the Trump campaign's contacts with Russia. As a senior Justice Department staffer, Ohr passed along Steele's information to the FBI, even after the bureau terminated its formal relationship with Steele over media leaks.

Republicans have raised questions about Ohr's contacts with Steele and Ohr's wife Nellie, who worked for Fusion. Lawmakers and staff in the room said Ohr was accompanied by a handful of attorneys, including a personal lawyer and counsel for the Justice Department.

At least seven GOP lawmakers — members of the House Judiciary and Oversight Committees — attended as well: Reps. Mark Meadows, Jim Jordan, Trey Gowdy, John Ratcliffe, Darrell Issa, Matt Gaetz and Andy Biggs. No Democratic lawmakers were on hand, but staffers of both parties attended.

Gaetz, emerging from the interview after nearly two hours, said Ohr appeared to be answering questions forthrightly but that his testimony about the timing of his contacts with Fusion appeared to conflict with answers given to lawmakers by Fusion GPS cofounder Glenn Simpson and former FBI attorney Lisa Page.

"Either Bruce Ohr's lying or Glenn Simpson's lying," Gaetz said, describing "a number of factual conflicts" between their testimony. He added that they could conceivably have competing recollections but that it will be important to bring both before the Judiciary Committee in a public hearing to sort out the facts.



CONGRESS

Republicans find a new target in fight to discredit Russia probe

By KYLE CHENEY

Gaetz, Meadows and Issa told reporters that Ohr's testimony revealed that the FBI had more significant doubts about the credibility of the Steele dossier than the bureau revealed when it applied for a court-ordered surveillance warrant on a former Trump campaign adviser, Carter Page, in October 2016.

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“Not only did the FBI know that the dossier was unverified, but they also knew that there were real credibility issues where it would never end up in a courtroom,” Meadows said.

Meadows and Gaetz also emphasized that Ohr appeared to handle this matter differently than any other in his 27-year Justice Department career, describing a “unique set of circumstances” they said raised questions.

Meadows added that lawmakers also learned who Ohr provided the dossier to inside the FBI when he first provided a version of it in 2016. But he declined to name the official, saying that the specifics of the interview are meant to remain confidential.

Issa told reporters after Ohr had testified for nearly four hours that Ohr revealed he had multiple “handlers” at the FBI who received information he provided on Steele’s dossier, but Issa declined to name them.

“There’s quite a list of names,” he said.

Issa also said lawmakers had continuing questions about Ohr’s wife receiving “only \$44,000” for her work at Fusion GPS and that Ohr himself didn’t seem familiar with all of the details of her work.

Meadows and Gaetz also re-emerged to suggest that Ohr’s testimony supports their belief that the FBI “withheld material facts” from the court when it applied for the surveillance warrant on Page.

Ohr is expected to be in the closed-door interview most of the day. Attorneys for Simpson and Page were not immediately available for comment.

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Exhibit J

Embattled FBI agent meets with Congress behind closed doors in 11-hour marathon

By [Jeremy Herb](#), [Manu Raju](#) and [Laura Jarrett](#), CNN

Updated 9:40 AM ET, Thu June 28, 2018

(CNN) — Embattled FBI agent Peter Strzok told lawmakers Wednesday in a marathon, closed-door interview that the anti-Trump text messages he exchanged with an FBI lawyer were part of an "intimate" conversation and he did not intend to act on any of the missives, according to Democrats in the meeting.

But Republicans argued that Strzok's claims about the messages after the fact were simply not credible, and one lawmaker claimed to have learned new information from his interview Tuesday with the House Oversight and Judiciary Committees.

Strzok's interview -- which stretched more than 11 hours and included unclassified and classified sessions -- was just the latest instance where Republicans and Democrats came away with dueling assessments over the FBI's actions during the 2016 election.

Wednesday's interview was the first chance for Congress to grill the FBI agent at the center of the controversy over the FBI's handling of its investigations into Hillary Clinton and Russia.

Strzok has been lambasted by Republicans — and criticized by some Democrats, too — for his anti-Trump text messages exchanged with former FBI lawyer Lisa Page. Strzok and Page, who had an extramarital affair, sent thousands of text messages while they worked on the Clinton email investigation, the Trump-Russia probe and briefly on special counsel Robert Mueller's team. Strzok was removed from Mueller's team after the texts were discovered; Page had already left.

Four sources from both parties tell CNN that Strzok told the House panels that Mueller didn't press him about the texts when they came to light.

In the closed door interview, Strzok was asked how Mueller reacted to the revelation of his anti-Trump texts. He said Mueller did not press him on the texts or ask him whether that showed any bias in the probe. But Mueller immediately removed him from the probe, according to the sources.

Republicans are likely to argue that it shows Mueller didn't care that the FBI probe may have been impacted by a biased agent. But Democrats say Mueller simply acted promptly as soon as he learned of the texts to remove Strzok from his team.

Democrats said that Strzok explained to lawmakers that his messages he exchanged with Page were "intimate" and "private," intended only for her and not a broader audience.

"He said the context was there were private emails, and these were certainly not any intent to act on anything," said Rep. Jerry Nadler of New York, the top Democrat on the House Judiciary Committee. "They were private expressions of opinion to a woman he was having an affair with."

Rep. Raja Krishnamoorthi, an Illinois Democrat, described Wednesday's interview as a "feisty, tense exchange" at various points.

"I don't walk away with the impression that politics bias actually controlled the actions of FBI agents," Krishnamoorthi said.

Republicans argued that Strzok shouldn't be taken at face value.

"Of course, he's always said that," Rep. Jim Jordan of Ohio, a leader of the House Freedom Caucus, said of Strzok's explanation.

But Rep. Mark Meadows, the North Carolina Republican who leads the conservative House Freedom Caucus, disputed Strzok's account, rejecting his explanation that the "we'll stop" Trump text was just an "intimate exchange between intimate friends."

"I would expect any witness to suggest they've looked at this impartially. ... I don't know how any reasonable person reads the texts and concludes there was not bias," Meadows said. "If you have an intimate personal conversation between two people — that normally would show the intent."

Meadows also said he learned new information, but he would not disclose what that was.

He suggested the information was related to the Trump-Russia investigation and Mueller's probe, which were not part of the inspector general report that was released earlier this month.

"The whole handoff between the FBI's investigation and the special counsel's investigation obviously has some concerns if you're relying predominantly on Peter Strzok," Meadows said.

Strzok was faulted [in the recent inspector general report from the Justice Department](#) for his anti-Trump bias, with Inspector General Michael Horowitz concluding that his texts "cast a cloud" over the entire FBI investigation. The report also found no evidence that the political bias affected the specific investigative decisions that were reviewed in the Clinton case, but found fault with Strzok for prioritizing the Russia investigation over the Clinton email probe.

But the latest batch of text messages uncovered by the inspector general included one in which Strzok told Page "we'll stop" Trump -- and Trump and his conservative allies say the texts show that the FBI was biased against Trump, arguing that the Mueller investigation is tainted as a result, too.

"It's one thing to say 'Trump's awful.' It's another thing to say 'We're going to stop him,' especially when those statements are made within 15 days, just days after you've launched an investigation into that individual," Jordan said in advance of the hearing.

The inspector general also said he could not conclude that political bias prompted Strzok to prioritize the Russia investigation over going through the emails on Anthony Weiner's laptop. Rep. Sheila Jackson Lee, a Texas Democrat, said Strzok said that "he did not elevate one investigation over the other."

After an FBI career spanning more than two decades and an ascent to the No. 2 spot within the counterintelligence division at the FBI, Strzok's collapse in the court of public opinion has been swift.

The man who led top secret Chinese espionage investigations was [led out of the FBI building earlier this month](#) as the bureau continues its disciplinary proceedings into the conduct revealed in Horowitz's report.

Strzok has indicated that he wants to testify and tell his side of the story now that the inspector general report has been released.

Indeed, Strzok told Justice Department investigators that despite his private messages, had he actually wanted to prevent Trump from being elected, he would not have maintained confidentiality about the investigation into contacts between the Trump campaign and Russians in the months before the election.

"Pete is central to this story. We should let the American people see who he really is," Strzok attorney Aitan Goelman said last week. "Pete has steadfastly played by the rules and respected the process, and yet he continues to be the target of unfounded personal attacks, political games and inappropriate information leaks."

While House Judiciary Chairman Bob Goodlatte initially issued a subpoena for his testimony last week, Strzok appeared voluntarily for an interview Wednesday.

According to his legal team, he "proactively" contacted the committee "when he read press reports that it was interested in his testimony."

Numerous congressional committees have expressed an interest in speaking to Strzok, but Wednesday's hearing will be the first before a congressional panel. The hearing is behind closed doors despite the wishes for a public hearing from several conservatives on the House panels -- as well as Trump himself.

"The hearing of Peter Strzok and the other hating frauds at the FBI & DOJ should be shown to the public on live television, not a closed door hearing that nobody will see," Trump tweeted on Monday. "We should expose these people for what they are - there should be total transparency!"

Conservatives on the two committees [have also been unhappy with the pace of the investigation](#) into the FBI's actions, including that Strzok is only being interviewed eight months into the probe and Page has yet to be scheduled.

Several Republicans said on their way into the interview repeated that they wanted him back for a public hearing. This included Goodlatte, who said he will be in "soon" for a public hearing, suggesting it could occur before August.

Democrats also said they supported a public hearing.

"There seems to be a difference of opinion in regards to what those text messages actually meant, and I personally think he should be heard in a public forum, this should not be a closed process — he should have a chance to tell the public what he meant in those messages," Krishnamoorthi said.

This story has been updated with additional developments.

CNN's Maeve O'Brien and Dan Scully contributed to this report.

Exhibit K



House GOP questions FBI lawyer for second day

BY OLIVIA BEAVERS - 07/16/18 07:44 PM EDT

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House Republicans grilled former FBI lawyer Lisa Page behind closed doors on Monday as they sought to make the case that bias influenced the bureau's investigations of [President Trump](#) and [Hillary Clinton](#).

It was the second day of a grueling interview for Page, whose emails and text messages with FBI agent Peter Strzok have been cited by GOP lawmakers as suggesting the FBI was biased against the Republican presidential candidate.

Lawmakers from the House Judiciary and House Oversight and Government Reform committees remained mostly tight-lipped on the details of her testimony, though multiple Republicans praised her as cooperative and forthcoming.

"Lisa Page today and again on Friday demonstrated a transparency that we didn't see from Peter Strzok," said Rep. [Mark Meadows](#) (R-N.C.), chairman of the House Freedom Caucus and one of the FBI's and Justice Department's fiercest critics.

Strzok's public hearing on Thursday led to fireworks and personal attacks, with the FBI agent offering a loud defense of the FBI and Republicans attacking his credibility. Rep. [Louie Gohmert](#) (R-Texas) at one point asked Strzok how many times he had looked into his wife's eyes and lied about his relationship with Page, with whom he'd had an affair.

One Democrat on the panel responded by saying Gohmert needed to take his medication.

Meadows said there are no plans to ask Page to testify publicly but added that some of Page's answers were interesting because they offered new information or contradicted other statements from witnesses.

Rep. [John Ratcliffe](#) (R-Texas), a House Judiciary member, also pointed to differences in Page's testimony.

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"In many cases, she admits that the text messages mean exactly what they say, as opposed to agent Strzok, who thinks we have all misinterpreted his own words on any text message that might be negative," Ratcliffe said.

Democratic Rep. [Raja Krishnamoorthi](#) (Ill.), however, said he had not heard any contradictions.

Strzok's testimony continued to reverberate, both on Capitol Hill and in Finland, where Trump criticized the FBI agent during his press conference with Russian President Vladimir Putin in Helsinki.

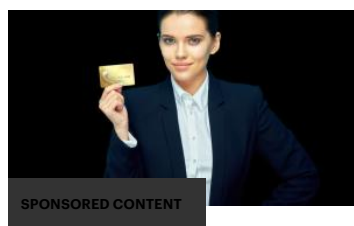
Trump, speaking with Putin beside him in front of a global audience, criticized Strzok and the investigation into Russia's involvement in the election in stark terms.

"And if anybody watched Peter Strzok testify over the last couple of days, and I was in Brussels watching it, it was a disgrace to the FBI," he said. "It was a disgrace to our country. And you would say, 'That was a total witch hunt.' "

Trump's remarks were widely criticized by Democrats and Republicans on Capitol Hill, though some in the GOP defended Trump for doubting Russia's actions because of a corrosion in trust caused by Page and Strzok.

"We saw the downgrading of Hillary Clinton's criminal activity, the words being changed on Peter Strzok's own computer. So for the president to cast doubt is not unreasonable," Rep. [Darrell Issa](#) (R-Calif.) told reporters.

Strzok served on special counsel [Robert Mueller](#)'s Russia probe before he was removed after an internal Justice Department watchdog uncovered his anti-Trump text messages.



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A report from the department's inspector general examining FBI conduct during the election found a text message where Strzok told Page "We'll stop it" after being asked, "[Trump's] not ever going to become president, right? Right?!"

The inspector general said Strzok displayed a "biased state of mind" during a key phase of the probe into Clinton's use of a private email server while secretary of State, but that no decision made during the course of the investigation was affected by bias or improper influence.

Strzok repeatedly argued that personal political opinions did not inform his professional decisionmaking during the 2016 race.

"At no time, in any of these texts, did those personal beliefs ever enter into the realm of any action I took," Strzok said.

The "We'll stop it" text, he said, was "written late at night, off the cuff and it was in response to a series of events that included then-candidate Trump insulting the immigrant family of a fallen war hero."

TAGS [RAJA KRISHNAMOORTHY](#) [HILLARY CLINTON](#) [JOHN RATCLIFFE](#) [ROBERT MUELLER](#) [LOUIE GOHMERT](#) [MARK MEADOWS](#) [DONALD TRUMP](#) [DARRELL ISSA](#)



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Exhibit L



Louie Gohmert: Lisa Page giving us 'more insights' into Russia investigation

by Pete Kasperowicz | July 17, 2018 07:38 AM

Rep. Louie Gohmert, R-Texas, said Tuesday that former FBI lawyer Lisa Page has been more helpful than FBI agent Peter Strzok when it comes to answering their questions about how the FBI handled the Russia and Hillary Clinton investigations.

"She has given us more insights to who was involved in what," Gohmert told Fox News.

"She's a more contrite person," he added. "But make no mistake ... she's a Democrat. She wanted Hillary to win and she did not want Trump to win, and that's been obvious."

Gohmert said Page has not contradicted Strzok, with whom she had an affair that was discovered by the Justice Department's inspector general. The two [texted each other anti-Trump messages](#), which led to GOP claims that the FBI was biased against President Trump and for Clinton.

But Gohmert said Page has generally been more cooperative, which he indicated has opened more doors in the House Republican probe.

Gohmert said, for example, that there are other FBI supervisors involved in the GOP investigation besides Strzok, although he didn't name them. He also indicated that former CIA Director John Brennan and former Director of National Intelligence James Clapper could be involved.

"When I hear Brennan or Clapper either saying the kind of things they've been saying recently, then it tells me, wow, we must be getting close to them," Gohmert said. "Those guilty dogs are barking pretty loud."

Gohmert said Page's closed-door testimony in the House on Friday and Monday was at times so frank that FBI lawyers tried to keep her from answering.

"There were times the FBI lawyers would be reaching for the button to mute her comment and she would answer before the thing could mute her comment," he said.

"I think she'll be a good witness," he added. "I don't know that we're going to have a public hearing with her. But the important thing is to continue to gather the evidence."

Exhibit M

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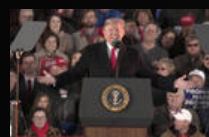
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CBS NEWS / November 25, 2018, 11:21 AM

Transcript: Rep. Trey Gowdy on "Face the Nation," Nov. 25, 2018

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The following is a transcript of the interview with Republican Rep. Trey Gowdy of South Carolina that aired Sunday, Nov. 25, 2018, on "Face the Nation."

MARGARET BRENNAN: Good morning and welcome to FACE THE NATION. We begin today with Republican Congressman Trey Gowdy who leads the main investigative- investigative committee of the House of Representatives. He joins us this morning from Greenville South Carolina. Welcome back to FACE THE NATION. You've been busy over the holiday.

REPRESENTATIVE TREY GOWDY: Good morning.

MARGARET BRENNAN: We know that Congressman. A subpoena was sent to fired FBI Director James Comey calling for him to testify before your committee. He's objecting to the format saying this has to be in public. It can't be in private because information will be selectively leaked. I know on this program in the past you have said that Congressional investigations, "leak like the gossip girls." Do you think that comes right to object?

REP. GOWDY: You know, Margaret, I don't get a chance to say this very often, but I do think Jim Comey is right. Leaks are counterproductive whether Jim Comey is doing it, whether the FBI is doing it, or whether Congress is doing it. The remedy for leaks is not to have a public hearing where you are supposed to ask about 17 months worth of work in five minutes. I think the remedy is to videotape the deposition. Videotape the transcribed interview. That way the public can see whether the question was fair. They could judge the entirety of the answer. But

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there is no fact finder on- on the planet that tries to discover the truth in five minute increments. And I can't think of one that does it on national television. So we have to do it the same way we've handled every other witness which is a transcribed interview a deposition. I am sensitive to leaks. I hate leaks. I think they undercut the- the authenticity of the investigation but the remedy is not to have a professional wrestling- type carnival atmosphere which is what Congressional public hearings have become.

MARGARET BRENNAN: Well how would a tape deposition change that? I mean his concern is that he's implying that this is just be political grandstanding.

REP. GOWDY: Well, people act differently when there aren't cameras in the room. Trust me when I say that. There are very constructive interviews when there is no camera. What I would propose - and Bob Goodlatte is the chairman he- he can decide - what I would propose is videotape that interview from pillar to post. Scrub it for classified information in case somebody inadvertently asks or answers and then release it to the public. Release the entire interview but do not make members of Congress question someone that Democrats think cost Hillary Clinton the election. And Republicans have a lot of questions for. Do not ask us to limit 17 months worth of decision making to five minutes of questions no other serious fact finder tries to do it in five minutes. So I don't know why Congress thinks it can.

MARGARET BRENNAN: Is that a formal offer to Mr. Comey?

REP. GOWDY: Oh if I were the chairman of Judiciary it would be a formal offer. I- I think Bob Goodlatte- Bob Goodlatte hates leaks every bit as much as I do which is why he doesn't do it.

MARGARET BRENNAN: Okay.

REP. GOWDY: But he also is not going to let Jim Comey who by the way the FBI has never conducted an interview in public. Never. And he wasn't interviewed by Mueller in public. So the notion that Jim Comey all of a sudden loves public interviews he hadn't done it his entire career. So Bob Goodlatte will decide and it won't be Jim Comey.

MARGARET BRENNAN: You've also put in a request this week to the White House for more information about why Ivanka Trump, a presidential adviser and obviously the president's daughter, was using private email for government-government business. People remember you well from the probe you lead into Benghazi that helped to uncover Hillary Clinton's use of private email. At the time you said that there should be prosecution of her for divulging classified information or in any way mishandling it. Would you similarly call for that kind of prosecution of the president's daughter?

REP. GOWDY: Well I will defer to whatever tape may exist but I have assiduously tried to avoid ever calling for the prosecution of anyone including Hillary Clinton. And I'm pretty sure that's true because I've had a lot of Republicans upset with me. They're two separate issues, the divulging of classified information is a crime using personal email upon which to conduct public business is not a crime. You're not supposed to do it. It's not best practices. It actually violates statutes and regulations. Pub- Public work is-is a privilege and-and part of that is you give up the right to use your private email to conduct government work. So you should keep record. Ms. Clinton should do it, Eric Holder. Everyone throughout government who conducts official business should use official email. If you don't then you should take other steps to safeguard it. And- and that's what we need to know from Mr. Trump but I've never called for Hillary Clinton to be prosecuted and I couldn't possibly have done it for using private email because it's not a crime.

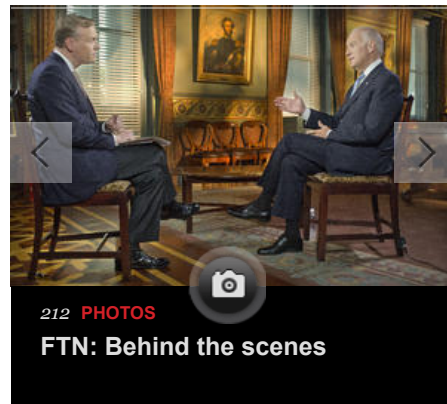
MARGARET BRENNAN: Mishandling classified information. I think some have interpreted your past statements about that to have called for further actions but in this case the president has already said for Ivanka Trump that he thinks there is



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nothing to see here. Are you concerned that he is saying that at this point before there is an investigation by your committee?

REP. GOWDY: I am concerned anytime any president prejudices the outcome of an investigation. Whether it's President Obama, whether it's President Trump. I've already talked to Ms. Trump's attorney. I've already talked to Mr. Cummings. We've already written a letter to the White House. Congress has a responsibility to make sure that the records and the Presidential Records Act is complied with and that is true no matter no matter who the person is, whether it's Secretary Clinton or whether it's Tom Perez or whether it's Ivanka Trump. So we've taken steps, we've done more in the last week than in some of my house Democratic colleagues did the entire time we were looking into Benghazi. So I'm at peace with what we've done but we need the information and we need it quickly. And then the public can judge whether or not those two fact patterns are similar.

MARGARET BRENNAN: I want to also ask you before you go. You're an attorney, you're a former federal prosecutor. Do you agree with the very unusual public statement that we heard this week from Chief Justice John Roberts who rebuked the president in many ways saying, "we do not have Obama judges or Trump judges Bush judges or Clinton judges." Do you share his concern that the judiciary is being politicized?

MARGARET BRENNAN: Margaret, I wish Chief Justice Roberts were right. I wish there were not a politicization of the judiciary. But it's not just politicians. Every print article that you will go find this afternoon refers to judges based on the president that put him or her in office. And you see terms like conservative and ultra conservative and liberal and moderate which are political terms but they're used to describe judges. So I wish Chief Justice Roberts were right. I wish that we did not refer to judges based on which president put them in office as if that is somehow going to inextricably lead us to the conclusion. But it's been happening since I was a kid. It's been happening for 50 years that we have used political terms to describe judges. I wish we would stop. But President Trump is not the first person to do it. I think President Obama criticized the Supreme Court to their face in the State of the Union. So I wish everyone would stop including the media referring to judges based on which President put them in office.

MARGARET BRENNAN: All right. Congressman Gowdy, good to talk to you. Thanks for joining us today.

REP. GOWDY: Yes ma'am. Thank you.

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Exhibit N

The New York Times

Trump Wanted to Order Justice Dept. to Prosecute Comey and Clinton

By Michael S. Schmidt and Maggie Haberman

Nov. 20, 2018

WASHINGTON — President Trump told the White House counsel in the spring that he wanted to order the Justice Department to prosecute two of his political adversaries: his 2016 challenger, Hillary Clinton, and the former F.B.I. director James B. Comey, according to two people familiar with the conversation.

The lawyer, Donald F. McGahn II, rebuffed the president, saying that he had no authority to order a prosecution. Mr. McGahn said that while he could request an investigation, that too could prompt accusations of abuse of power. To underscore his point, Mr. McGahn had White House lawyers write a memo for Mr. Trump warning that if he asked law enforcement to investigate his rivals, he could face a range of consequences, including possible impeachment.

The encounter was one of the most blatant examples yet of how Mr. Trump views the typically independent Justice Department as a tool to be wielded against his political enemies. It took on additional significance in recent weeks when Mr. McGahn left the White House and Mr. Trump appointed a relatively inexperienced political loyalist, Matthew G. Whitaker, as the acting attorney general.

It is unclear whether Mr. Trump read Mr. McGahn's memo or whether he pursued the prosecutions further. But the president has continued to privately discuss the matter, including the possible appointment of a second special counsel to investigate both Mrs. Clinton and Mr. Comey, according to two people who have spoken to Mr. Trump about the issue. He has also repeatedly expressed disappointment in the F.B.I. director, Christopher A. Wray, for failing to more aggressively investigate Mrs. Clinton, calling him weak, one of the people said.

A White House spokesman declined to comment. A spokeswoman for the F.B.I. declined to comment on the president's criticism of Mr. Wray, whom he appointed last year after firing Mr. Comey.

"Mr. McGahn will not comment on his legal advice to the president," said Mr. McGahn's lawyer, William A. Burck. "Like any client, the president is entitled to confidentiality. Mr. McGahn would point out, though, that the president never, to his knowledge, ordered that anyone prosecute Hillary Clinton or James Comey."

It is not clear which accusations Mr. Trump wanted prosecutors to pursue. He has accused Mr. Comey, without evidence, of illegally having classified information shared with The New York Times in a memo that Mr. Comey wrote about his interactions with the president. The document contained no classified information.

Mr. Trump's lawyers also privately asked the Justice Department last year to investigate Mr. Comey for mishandling sensitive government information and for his role in the Clinton email investigation. Law enforcement officials declined their requests. Mr. Comey is a witness against the president in the investigation by the special counsel, Robert S. Mueller III.

Mr. Trump has grown frustrated with Mr. Wray for what the president sees as his failure to investigate Mrs. Clinton's role in the Obama administration's decision to allow the Russian nuclear agency to buy a uranium mining company. Conservatives have long pointed to donations to the Clinton family foundation by people associated with the company, Uranium One, as proof of corruption. But no evidence has emerged that those donations influenced the American approval of the deal.



Mr. Trump has expressed disappointment in the F.B.I. director, Christopher A. Wray, for failing to more aggressively investigate Mrs. Clinton. Al Drago for The New York Times

Mr. Trump repeatedly pressed Justice Department officials about the status of Clinton-related investigations, including Mr. Whitaker when he was the chief of staff to Attorney General Jeff Sessions, according to a person with direct knowledge of the conversations. CNN and Vox earlier reported those discussions.

COMMENT OF THE MOMENT

T

Too Bad
60610 | Nov. 21

Times Pick

But he didn't. Settle down Libs he didn't do it. Sounds like he vented and they properly ignored him.

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In his conversation with Mr. McGahn, the president asked what stopped him from ordering the Justice Department to investigate Mr. Comey and Mrs. Clinton, the two people familiar with the conversation said. He did have the authority to ask the Justice Department to investigate, Mr. McGahn said, but warned that making such a request could create a series of problems.

Mr. McGahn promised to write a memo outlining the president's authorities. In the days that followed, lawyers in the White House Counsel's Office wrote a several-page document in which they strongly cautioned Mr. Trump against asking the Justice Department to investigate anyone.

The lawyers laid out a series of consequences. For starters, Justice Department lawyers could refuse to follow Mr. Trump's orders even before an investigation began, setting off another political firestorm.

If charges were brought, judges could dismiss them. And Congress, they added, could investigate the president's role in a prosecution and begin impeachment proceedings.

Ultimately, the lawyers warned, Mr. Trump could be voted out of office if voters believed he had abused his power.

Mr. Trump's frustrations about Mr. Comey and Mrs. Clinton were a recurring refrain, a former White House official said. "Why aren't they going after" them?, the president would ask of Justice Department officials.

For decades, White House aides have routinely sought to shield presidents from decisions related to criminal cases or even from talking about them publicly. Presidential meddling could undermine the legitimacy of prosecutions by attaching political overtones to investigations in which career law enforcement officials followed the evidence and the law.

Perhaps more than any president since Richard M. Nixon, Mr. Trump has been accused of trying to exploit his authority over law enforcement. Witnesses have told the special counsel's investigators about how Mr. Trump tried to end an investigation into an aide, install loyalists to

In addition, Mr. Trump has attacked the integrity of Justice Department officials, claiming they are on a “witch hunt” to bring him down.

Mr. Trump has accused the former F.B.I. director James B. Comey, without evidence, of illegally having classified information shared with reporters.

Justin Tang/The Canadian Press, via Associated Press

More significant, Mr. Mueller is investigating whether the president tried to impede his investigation into whether any Trump associates conspired with Russia’s campaign to sow discord among the American electorate during the 2016 presidential race.

Mr. Trump stoked his enmity for Mrs. Clinton during the campaign, suggesting during a presidential debate that he would prosecute her if he was elected president. “If I win, I am going to instruct my attorney general to get a special prosecutor to look into your situation,” Mr. Trump said.

“It’s just awfully good that someone with the temperament of Donald Trump is not in charge of the law in our country,” Mrs. Clinton replied.

“Because you would be in jail,” Mr. Trump shot back.

During the presidential race, Mr. Whitaker, a former United States attorney, also said he would have indicted Mrs. Clinton, contradicting Mr. Comey's highly unusual public announcement that he would recommend the Justice Department not charge her over her handling of classified information while secretary of state.

"When the facts and evidence show a criminal violation has been committed, the individuals involved should not dictate whether the case is prosecuted," Mr. Whitaker wrote in an op-ed in USA Today in July 2016.

Two weeks after his surprise victory, Mr. Trump backed off. "I don't want to hurt the Clintons, I really don't," Mr. Trump said in an interview with The Times. "She went through a lot and suffered greatly in many different ways, and I am not looking to hurt them at all. The campaign was vicious."

Nonetheless, he revisited the idea both publicly and privately after taking office. Some of his more vocal supporters stirred his anger, including the Fox News commentator Jeanine Pirro, who has railed repeatedly on her weekly show that the president is being ill served by the Justice Department.

Ms. Pirro told Mr. Trump in the Oval Office last November that the Justice Department should appoint a special counsel to investigate the Uranium One deal, two people briefed on the discussion have said. During that meeting, the White House chief of staff, John F. Kelly, told Ms. Pirro she was inflaming an already vexed president, the people said.

Shortly after, Mr. Sessions wrote to lawmakers, partly at the urging of the president's allies in the House, to inform them that federal prosecutors in Utah were examining whether to appoint a special counsel to investigate Mrs. Clinton. A spokeswoman for the United States attorney for Utah declined to comment on Tuesday on the status of the investigation.

Mr. Trump once called his distance from law enforcement one of the "saddest" parts of being president.

"I look at what's happening with the Justice Department," he said in a radio interview a year ago. "Well, why aren't they going after Hillary Clinton and her emails and with her, the dossier?" He added: "I am not supposed to be doing the kind of things that I would love to be doing. And I am very frustrated."

Michael S. Schmidt reported from Washington, and Maggie Haberman from New York.

A version of this article appears in print on Nov. 21, 2018, on Page A1 of the New York edition with the headline: Trump Sought To Have Foes Face Charges

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

*IN RE SUBPOENA OF JAMES COMEY BY
AUTHORITY OF THE HOUSE OF
REPRESENTATIVES OF THE CONGRESS OF THE
UNITED STATES OF AMERICA*

Case: 1:18-mc-00174
Assigned To : Kelly, Timothy J.
Assign. Date : 11/29/2018
Description: Misc.

[PROPOSED] ORDER

AND NOW, on this ____ day of November/December, 2018, upon consideration of the instant Motion to Quash, it is hereby ORDERED and DECREED that the Motion is GRANTED and that the November 21, 2018 Congressional Subpoena is Quashed.

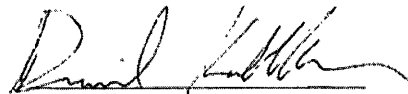
Date

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2018 I caused the foregoing Motion to Quash the Congressional Subpoena to be served via email on the following counsel, who have consented to service by electronic means:

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